

# **GALLATIN COUNTY, MONTANA**

Road & Bridge Department  
201 W. Tamarack  
Bozeman, MT 59715  
406-582-3250

## **Permit Application and Agreement for Encroachments within the Right of Ways of Gallatin County**

Pursuant to Title 7, Chapter 14, MCA, inter alia, any person or agency performing any work in a County Road right of way must first obtain an encroachment permit from the Road and Bridge Department. Encroachment permits are issued for driveways, private road approaches, commercial road approaches, underground and aerial utility work, subdivision road approaches or any other kind of work performed within the right of way.

The term "encroachment" includes any tower, pole, poleline, pipe, pipeline, driveway, private road, fence, walkway, path, trail, stand or building, or any structure or object of any kind or character not particularly mentioned in this section, which is placed in, under or over any portion of the County Road right of way.

Fees are required for most of the various categories of encroachment permits, as established by the Road and Bridge Department. Fee amounts may change from time to time, so applicants should check with the Road and Bridge Department prior to submitting a completed application.

Encroachment permits are generally issued for a ninety (90) day period. The Road and Bridge Department may issue time extensions for up to an additional six months upon request and payment of appropriate fees.

### **PART I** **STANDARD ROAD ENCROACHMENT PERMIT CONDITIONS**

1. INSPECTIONS – A fifty-dollar (\$50.00) refundable inspection fee is required for all encroachments, in addition to the seventy-five dollar (\$75) application fee. Applicant must notify this department upon completion of project. A representative of the Road and Bridge Department shall conduct an inspection of all encroachments. The refundable inspection fee shall be refunded only when all requirements set forth by this department have been adhered to. Work done without inspection may have to be reconstructed or removed.

2. PROTECTION - Provide and maintain enough barricades, lights, signs, flaggers and other safety measures to protect the public in accordance with the Manual on Uniform Traffic Control Devices ("MUTCD"), current edition.

3. TRAFFIC - A County road may not be closed to public traffic without the approval of the County. All traffic control must be conducted in accordance with MUTCD, current edition.

4. **STANDARDS** - Work shall be in accordance with the County Road and Bridge Department's standard specifications and recommendations that can be obtained at the Road and Bridge Department offices. Those standards are based on the Montana Public Works Standard Specifications ("MPWSS"), 4<sup>th</sup> Edition 1996.

5. **UTILITIES** - Utility relocations are the responsibility of the Applicant. Federal law requires all parties contact "One Call Locators" at 1-800-424-5555 before digging.

6. **LAWS AND REGULATIONS** - The Applicant shall comply with all applicable state, federal and local laws and regulations, including by not limited to Montana Labor Preference, Equal Opportunity, Prevailing Wage Rate and Safety laws.

7. **LIEN WAIVERS** - Provided that the County has first made all payments as may be required, Applicant shall pay all valid bills and charges for materials and labor incurred by it and arising out of the permitted activities and will hold the County free and harmless against liens and claims of liens or services, labor and materials filed against the property upon which the permitted activities is commenced. As evidence of payment of service providers, materialmen and subcontractors, Applicant shall file lien waivers. Applicant will also file the same for its services and Applicant shall provide the necessary information to identify all providers of services, materialmen and subcontractors.

8. **WAIVER AND INDEMNIFICATION** - Applicant waives any and all claims and recourse against the County or its officers, agent or employees, including the right of contribution for loss or damage to person or property arising from, growing out of or in any way connected with or incident to the performance of the permitted activities except claims arising from the intentional acts or concurrent or sole negligence of the County or its officers, agents or employees.

Applicant will indemnify, hold harmless, and defend the County and its agents, principals, and employees from and against any and all claims, demands, costs, expenses, losses, liability (including liability where activity is inherently or intrinsically dangerous), judgments, defense expenses, and attorney's fees rising out of or resulting from the Applicant's wrongful acts, errors, omissions, or negligence, or from Applicant's failure to comply with the requirements of this permit or with all federal, state and local law applicable to the performance of this Permit. In the event of an action filed against the County resulting for the Applicant's performance under this Permit, the County may elect to represent itself and incur all costs and expenses of suit. These obligations shall survive the termination and expiration of this Permit.

9. **INSURANCE** - Applicant shall carry Commercial General Liability insurance in the amounts set forth in the Application. Certificates of Insurance evidencing the above and any other insurance requirement herein naming Gallatin County as additional insured must be supplied before the application is approved. Any insurance carried by the Applicant shall be primary and non-contributing and include no exclusions related to toxic substances or hazardous waste. Applicant shall put Gallatin County on immediate notice of any changes or cancellation in coverage.

Applicant shall require all subcontractors to meet the same insurance coverage, make the same certifications as above and require the certificates to be forwarded to the County within ten days of entering into the subcontract.

10. **INDEPENDENT CONTRACTOR** – If any contractual relationship is created, the Applicant and his/her consultants and subcontractors shall at all times be considered independent contractors and shall in no way be considered agents or partners of the County. Applicant and his/her consultants and subcontractors have been and will continue to be free from control or discretion over their performance under this Permit. The County will not be responsible for withholding any state or federal taxes or social security, nor will the County extend any of the benefits to the Applicant that it extends to employees. The Applicant is required to maintain necessary records and withholding.

As an independent contractor, Applicant must provide Workers Compensation for all employees in the amount required by Montana law. A Certificate of Insurance showing compliance with Montana Workers Compensation law (or exemption therefrom) must be supplied to the County within ten days of signing this Permit.

11. **RUBBISH AND DEBRIS** – Upon completion of work contemplated under this permit, all rubbish and debris shall be immediately removed and the roadway and roadside left in a neat and presentable condition satisfactory to the County.

12. **COUNTY TO BE REIMBURSED FOR REPAIRING ROADWAY** - Applicant agrees to reimburse the County for any expense incurred in repairing the surface of the roadway due to settlement at installation, or for any other damage to the roadway that occurs within two (2) years as a result of the work performed under this permit.

13. **MAINTENANCE AT THE EXPENSE OF APPLICANT** - Applicant shall maintain, at its/his/her sole expense the installations and structures for which this permit is granted, in a condition satisfactory to the County.

14. **CONDITIONS RELATING TO CONSTRUCTION REQUIREMENTS** – All areas that are excavated will be re-compacted, and disturbed areas restored to original or better condition.

A) Overhead Installations:

1. Vertical clearance shall meet the standards of the National Electrical Safety Codes
2. Location will be at or near right-of-way line. Where right-of-way and terrain features permit, the facilities shall be located not less than 30 feet from edge of traveled way. In urban areas the facilities will be located as far as practical from the edge of the pavement and no closer than 2 feet behind the curb line.
3. All downguys installed on new or added to existing structures not in parallel with the roadway must have the location identified on the permit. If the anchor is allowed within 30 feet of clear zone, it must be constructed, located, or protected such that it will not be a roadside hazard.

B) Underground Pipeline Installations:

1. Shall conform to applicable National and State Codes. Location: longitudinal will be located as near the right-of-way line as practicable.

2. Bored and pushed crossings shall be constructed pursuant to construction plans approved by the County. Where applicable, the County recommends the following conditions:

- (a) locate pipeline at least 30 inches below adjacent ditches or ground line (42 inches if possible).
- (b) locate the push pits no closer than 10 feet from the edge of the asphalt.
- (c) All utility crossings shall be pushed or bored, unless prior approval is obtained on permit from the Road and Bridge Department.

C) Underground Cable: Vertical Depth – per N.E.S.C. – Minimum Electrical 30 inches – Communications 24 inches (30 inches if reasonably possible). All crossings 42 inches below adjacent ditches or ground line if reasonably possible. All utility crossings shall be pushed or bored, unless prior approval is obtained on permit from the Road and Bridge Department.

15. REVOCATION - The permit may be revoked by the County upon giving five days notice to the Applicant by ordinary mail, directed to the address shown in this application. The County reserves the right to revoke this permit without notice in the event of breach of any conditions or terms set forth herein.

16. RESEEDING – If the disturbance results in the potential for noxious weed infestation within a weed control district the Applicant shall notify the district weed board at least 15 days prior to the activity. The board shall require that the areas be seeded, planted, or otherwise managed to reestablish a cover of beneficial plants. The Applicant shall submit to the board a written plan specifying the methods to be used to accomplish revegetation at least 15 days prior to the activity. The plan must describe the time and method of seeding, fertilization practices, recommended plant species, use of weed-free seed, and the weed management procedures to be used. The plan is subject to approval by the district weed board, which may require revisions to bring the revegetation plan into compliance with the district weed management plan. The activity for which notice is given may not occur until the plan is approved by the district weed board and signed by the presiding officer of the district weed board and by the Applicant. The signed plan constitutes a binding agreement between the district weed board and the Applicant. The plan must be approved, with revisions if necessary, within 10 days of receipt by the district weed board.

17. PERFORMANCE BONDS - The County Road and Bridge Department may require a performance bond for any encroachment.

18. MODIFICATION/WORK ON EXISTING ENCROACHMENTS – The Applicant must reapply for a permit, at no charge, for any change in use or modification of an existing encroachment.

## **PART II** **FEES**

TOTAL APPLICATION FEE-**\$125.00**

(General application fee of \$75.00 and a refundable final inspection fee of \$50.00).

### PART III

#### **ENCROACHMENT PERMIT (DRIVEWAY) APPLICATION**

- Road Name \_\_\_\_\_
- Project No.: \_\_\_\_\_ Application Date: \_\_\_\_\_
- Estimated Start Date: \_\_\_\_\_ Desired Completion Date: \_\_\_\_\_

***Construction must be completed within 90 days of permit approval.***

Applicant shall provide a certificate of commercial liability insurance in the amount of: \$ \_\_\_\_\_, naming Gallatin County as additional insured.

**Please provide a sketch of the proposed project with property boundaries, road names, drainages and topographic features affecting the proposed location. Please indicate approximate distances to the nearest adjacent existing approaches on both sides of the County Road Rights-Of-Way.**

#### **Driveway/Approach:**

- The main use of the encroachment will be: ☐ commercial ☐ residential only ☐ agricultural
- ☐ Other (*please explain*): \_\_\_\_\_
- What is the intended purpose of the encroachment? \_\_\_\_\_
- Encroachment Address: \_\_\_\_\_  
City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_
- COS # \_\_\_\_\_ Subdivision Name: \_\_\_\_\_
- General Location (*i.e.*) *West side of River Rd approx. 1/4 mile south of the intersection at Lee Rd:* \_\_\_\_\_
- Is this approach pre-existing? \_\_\_\_\_ If so, explain: \_\_\_\_\_
- Are there any other driveways to the property? \_\_\_\_\_ If so, explain: \_\_\_\_\_
- Date proposed location will be flagged for an initial assessment: \_\_\_\_\_

**PART IV**

**APPLICANT INFORMATION**

Name: \_\_\_\_\_ E-mail address: \_\_\_\_\_

Check one: Owner [ ] Authorized Agent [ ]

Mailing Address: \_\_\_\_\_ City: \_\_\_\_\_ St: \_\_\_\_\_ Zip Code: \_\_\_\_\_

Telephone: \_\_\_\_\_ (Cell/Fax/Pager): \_\_\_\_\_

I \_\_\_\_\_ hereby make application to excavate and/or encroach in the Public Road Right-of-Way at the location(s) and as described herein, subject to the provisions required by the Road and Bridge Department of Gallatin County, applicable Local, State or Federal Regulations, AND ANY SPECIFIED REQUIREMENTS ATTACHED HERETO. I have read the entire Permit application including the standard conditions.

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**PROPERTY OWNER INFORMATION/AUTHORIZATION**

*(Please complete this section only if the applicant is **not** the owner)*

Owner: \_\_\_\_\_

Mailing Address: \_\_\_\_\_ City: \_\_\_\_\_ St: \_\_\_\_\_ Zip Code: \_\_\_\_\_

Telephone: \_\_\_\_\_ (Cell/Fax/Pager): \_\_\_\_\_

I/We \_\_\_\_\_ authorize and give consent to \_\_\_\_\_ to act as my/our authorized agent to apply for, sign and receive in my/our behalf an Encroachment Permit. I/we understand that as the legal property owner where the encroachment is to take place, that I/we are responsible and liable for all actions, costs and liabilities associated with this Encroachment Permit and that I/we have read the entire Permit application including the standard conditions.

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**For County Use Only:**

Approved by: \_\_\_\_\_ Date: \_\_\_\_\_  
Gallatin County Road & Bridge Department

Total Fees Paid: \$ \_\_\_\_\_ Name: \_\_\_\_\_

Mailing Address: \_\_\_\_\_ City: \_\_\_\_\_ St: \_\_\_\_\_ Zip Code: \_\_\_\_\_

Receipt No.: \_\_\_\_\_ Permit No.: \_\_\_\_\_ Accepted: \_\_\_\_\_ Denied: \_\_\_\_\_ Reason denied: \_\_\_\_\_

- \_\_\_\_\_ Exhibit "A" Open Trench Requirements
- \_\_\_\_\_ Exhibit "B" Specifications for Non-Shrink Backfill (Slurry)
- \_\_\_\_\_ Exhibit "C" Backfilling of Excavated Areas Beneath Roadway Section
- \_\_\_\_\_ Exhibit "D" Mailbox Placement
- \_\_\_\_\_ Exhibit "E" Driveway Standards